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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10690605
Filing Date: October 23, 2003
Appellant(s): Ramamoorthy, et al.

John P. Wagner (35,398)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/12/11 appealing from the Office action mailed 3/24/11.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20020038340	Whipple	08-2001
6594823	Corbin	09-2000

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, and 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whipple et al., US PGP No. 20020038340, and further in view of Corbin, US Patent No. 6594823.

As per claims 1, 10, and 18, Whipple teaches:

A system for implementing a policy in a network, said system comprising:

a plurality of device-agnostic policy implementations, in which the device-agnostic policy implementations include non-security policy implementations;

[see paragraph 5, request from client]

[see paragraphs 17 and 20 for examples of the requests that may be made]

[see paragraph 16, wherein communication from clients are translated into an appropriate internal format for the HUB API. Examiner views the internal formats from that are appropriate for the HUB API as device-agnostic policy implementations. Said formats are device agnostic because they are not specific to the clients but rather formatted from the clients' specific formats into formats that are suitable for the HUB.]

a plurality of network devices, at least two of said devices being dissimilar, wherein a type of network device associated with a received device-agnostic policy implementation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML); and

[see paragraphs 5 and 6 wherein a client communicates a network API request in a native format. The request is translated into an internal format to an application server. A return value is later sent to the client after it is translated from the internal format back into a native format. It is also cited that remote client may interact with the hub system using XML.

[see paragraph 15 wherein hub and client system may include firewalls, which applicant's specification cites as an example of a network device]

a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices and one of said plurality of device-agnostic policy implementations, at least two of said device translators being dissimilar, each of said plurality of device translators being loaded after said type of network device is identified to translate said received device-agnostic policy implementation into corresponding device-specific implementations,

[see paragraphs 23 and 24, wherein a network API request (NAPI request) is made from the client to the HUB. The client request is first interpreted to ascertain the format of the request (XML, EDI, JAVA, etc.). Once this is done, an adapter is chosen to handle the request. The adapter is capable of translating the NAPI request into an internal format readable by the HUB. Once translated into an internal format, a return value can be sent to the client. Before this can be done, an adapter is used to translate from an internal format into the native format of the original NAPI request.

Examiner views the adapters as the claimed device translators. It is clear that the translators correspond to the plurality of network devices because they are suitable for translating from the native formats of the devices into an internal format and vice versa. It is also clear that the device translators are dissimilar because each translator is capable of translating different formats. It is further clear that the translators are loaded after the type of network device is identified because prior to the device being identified, it would be unknown what type of format the request is.

wherein subsequent additions or maintenance of any of said plurality of network devices and any of said plurality of device-agnostic policy implementations are provided using device-agnostic files.

[examiner views this limitation as citing that any changes or additions to the way a device translator interacts with a network device and its corresponding device-agnostic policy implementation are provided using device-agnostic files. As cited above, device-agnostic is viewed to be analogous to an internal format. Since the adapters of the Whipple reference are maintained by the HUB, it is clear that any changes or additions to the adapters are provided

using an internal format. This is in line with applicant's specification because non-vendor specific files can be made for various devices without tailoring the code to a specific vendor.]

The Whipple reference has been discussed above. While Whipple teaches the identification of device agnostic policy implementations, Whipple is mute in teaching that the identification of the type of network device being associated with a received device-agnostic policy implementation is done by parsing tags of data. For this limitation, examiner relies on the Corbin reference.

Corbin teaches a method which includes parsing the tag of each element to determine the name and type of the variable represented by the element (see col. 4, lines 38-67, and col. 5, lines 1-49). Examiner views this as analogous to applicant's claimed identifying by parsing tags of data. It would have been obvious to one of ordinary skill in the art to modify the Whipple invention to include the parsing taught by Corbin because the Whipple invention includes usage of a plurality of different programming languages and it would be advantageous to represent the high level programming language data structures in a markup language. Parsing of the tags in XML as described by Corbin would afford a uniform language that all applicable languages can be translated into.

As per claims 2 and 13, Whipple teaches:

The system according to claim 1, wherein said device-agnostic policy implementation is selected from the group consisting of firewall, Virtual Private Network, Java 2 Enterprise Edition Application, and custom operating system.

[see paragraph 6]

As per claims 3 and 14, Whipple teaches:

The system according to claim 1, wherein said device-agnostic policy implementation implements a policy selected from the group consisting of access control, quality of service, backup, and availability.

[see paragraphs 17, 20, and 28]

As per claims 4 and 12, Whipple teaches:

The system according to claim 1, wherein said device translators are represented by Extensible Stylesheet Language (XSL) code.

[see paragraphs 18 and 23]

As per claims 11, Whipple teaches:

The system according to claim 1, wherein said device-agnostic policy implementation is Extensible Markup Language (XML) code.

[see paragraphs 18 and 23]

As per claims 6, Whipple teaches:

The system according to claim 3, wherein said policy is represented by Extensible Markup Language (XML) code.

[see paragraphs 18 and 23]

As per claims 7 and 15, Whipple teaches:

The system according to claim 1, wherein the device-specific implementation is represented by Command Line Interface (CLI) code.

[see paragraph 23, "native format"]

As per claims 8 and 16, Whipple teaches:

The system according to claim 1, wherein the device-specific implementation is represented by Application Programming Interface (API) code.

[see paragraph 16]

As per claims 9 and 17, Whipple teaches:

The system according to claim 1, wherein the device-specific implementation is represented by Java code.

[see paragraph 18]

(10) Response to Argument

I. Rejection of claims 1-4 and 6-18 under 35 USC 103

(A) WHIPPLE

(A1) Appellant's understanding of what Whipple teaches.

Appellant is arguing that the Whipple reference does not teach translating from a device specific format into a device agnostic format because Whipple teaches translating from a native format into another native format.

Examiner respectfully disagrees. Appellant is arguing that the Whipple reference does not teach translating from a device specific format into a device agnostic format because Whipple teaches translating from a native format into another native format. Appellant's interpretation of the Whipple reference is only partially correct. Whipple does indeed teach translating from a native format into another native format but Whipple further teaches that the native format is first translated into an internal format before being translated into another native format. Examiner views the native formats as device specific and the internal format as device agnostic. The native formats are specific to each client while the internal format may be translated into any native format. The internal format allows the system to

facilitate communication between clients which operate on a variety of native formats because each format may be translated into an internal format. This is all explained in paragraph 5 of the Whipple reference.

(B) DIFFERENCES BETWEEN WHIPPLE AND CLAIM 1

(B1) "Appellants respectfully submit that Whipple determines Whipple's adapter by reading a file wrapper instead of "wherein a type of network device associated with a received device-agnostic policy implantation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML)," as recited by independent Claim 1. Further, the Office Action states that Whipple does not teach "parsing tags of data from said received device agnostic policy implementation represented..." as recited. Appellants respectfully agree."

It appears appellant is arguing that the determination of the adapter is performed by reading a file wrapper instead being identified by parsing tags. As cited in the previous final rejection, Whipple does not identify the adapter by parsing tags. The Corbin reference was cited to teach this limitation. Appellant does not offer any other argument pertaining to the differences between Whipple and claim 1.

(C) NO MOTIVATION TO COMBINE WHIPPLE WITH ANY OTHER ART

(C1) Appellants respectfully submit that Whipple does not teach or suggest "a plurality of device-agnostic policy implementations...a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device- specific implementations," as recited by independent Claim 1.

It is examiner's understanding of applicant's invention that applicant is claiming a system wherein code is written that is non-vendor specific. A

translator is then built that translate this code into a vendor specific code. Multiple translators are built for each type of vendor specific code (applicant's specification, paragraph 20). Examiner contends that Whipple teaches the same embodiments. Whipple takes code of a specific native format and translates it into an internal format. As explained in the previous action, the internal format is not vendor specific and thus is viewed as device agnostic. Any kind of code from any native format can be translated by the system taught by Whipple into an internal format. The internal format code is then processed by individual adapters into specific native formats which examiner views as the claimed vendor specific code.

(C2) Further, Appellants respectfully submit that Whipple teaches away from "...translating said device-agnostic policy implementation into corresponding device-specific implementations." For example, as discussed herein, Appellants understand Whipple to require translating the parameters from one native format into another native format in order to achieve Whipple's intended purpose is to facilitate communications between clients where the communications involve electronic market places such as business-to-consumer ("B2C") or business-to- business ("B2B") with different sets of software applications (see Whipple title, 0003 lines 1-5 quoted herein). Appellants respectfully submit that requiring translation of parameters from one native format into another native format teaches away from "...translating said device-agnostic policy implementation into corresponding device-specific implementations."

As explained above, appellant has misinterpreted the Whipple reference and completely ignored the fact that Whipple teaches translating native formats into an internal format. Once the code is translated into an internal format, it is then translated into any native format depending on the client that is to receive the response. The translation from an internal format into a native format is exactly what applicant is claiming in the limitation

"translating said device-agnostic (internal format) into corresponding device specific (native format) implementations..."

(C3) Second, Appellants understand Whipple to teach that there is an adapter for each requesting client's native format since Whipple teaches selecting an adapter based on the requesting client's native format where the adapter converts parameters from one native format into another native format (see Whipple 0023, 0016 lines 10-14 quoted herein). Appellants respectfully submit that an adaptor for each requesting client's native format where the adapter converts parameters from one native format into another native format does not teach or suggest "each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1. Further, Appellants respectfully submit that selecting an adapter based on the requesting client's native format where the adapter converts parameters from one native format into another native format (see Whipple 0023, 0016 lines 10-14 quoted herein) teaches away from "each device translator corresponding to a respective one of said plurality of network devices...each of said plurality of device translators translating said device-agnostic policy implementation into corresponding device-specific implementations," as recited by independent Claim 1. Appellants respectfully submit that since Whipple teaches away from Claim 1, there is no motivation to combine Whipple with any other asserted art, such as Corbin.

The adaptors mentioned by Appellant are used to translate the parameters from an internal format into various client native formats. This is exactly what appellant is claiming in the limitation, "each device translator (adaptor) corresponding to a respective one of said plurality of network devices (clients)... each of said plurality of device translators (adaptors) translating said device –agnostic policy implementation (internal format

parameters) into corresponding device-specific implementations (native format parameters). This does not teach away from the claimed limitations because it teaches exactly the claim limitations. Since Whipple does not teach away from claim 1, there is motivation to combine the Whipple reference with the Corbin reference.

(D) CORBIN

(D1) Appellant argues that Corbin does not cure the deficiencies of the Whipple reference.

The claimed deficiencies of the Whipple reference have been discussed above and thus it is reasonable to combine the Whipple reference with the Corbin reference

(E) RESPONSE TO ARGUMENTS SECTION

(E1) Appellants respectfully agree with the Office Action's assertion in the first paragraph on page 4 that Whipple is directed to communications between the clients and the HUB involve translating formats of the respective communications. Therefore, the Office Action has admitted in the first paragraph on page 4 that Whipple is not directed to translating code of a specific native format and into an internal format as the Office Action contended at lines 10-11 of paragraph 1 on page 2. The Office Action states on page 3 lines 1-2, "Applicant is arguing that Whipple translates from a device specific policy into another device specific policy." Appellants respectfully submit that this is a mischaracterization of Appellants' statements. Appellants have not argued that Whipple teaches "policies" or "implementations" as recited. Instead, Appellants have stated that Whipple is directed to wrapping communications and translating formats of communications.

First, it is unclear how translating code from an internal format into a native format is different than what is claimed by appellant. Second, the Whipple reference teaches translating parameters or code from one format into another. Applied to the claim limitations, Whipple teaches translating code from an internal format into code that is in a native format. The format itself is not translated; the code is translated into different formats.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Daniel L. Hoang/

Examiner, Art Unit 2436

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